

REMARKS

1. The Restriction Requirement Office Action of April 24, 2006 is hereby acknowledged. This Response Under 37 C.F.R. § 1.111 is being mailed by Express Mail, Mail Label No. EV 824163610 US, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on May 22, 2006. The shortened statutory period of one (1) month time period for response to this Office Action expires on May 24, 2005. Therefore, this Response this Response is timely filed.

2. The Applicant acknowledges with appreciation the Patent Examiner's detailed analysis of the Application 10/800,233 (hereafter "233 Application") and the restriction requirement wherein the Patent Examiner has stated that he believes that the claims are directed to the following patently distinct species of the claimed invention: Species I, claims 1-14 and 32-45, drawn to a shoe with a gel pad underneath the front area beneath the toes; Species II, claims 15-17 and 46-48, drawn to a shoe with a pad located underneath the toes in a cavity located in the insole; Species III, claims 18-20 and 49-51, drawn to a shoe with a pad located underneath the toes and a cavity in both the insole and midsole; and Species IV, claims 21-31 and 52-62, drawn to a shoe with a pad located in a cavity in the front of the shoe. The Application is required to elect one of these two species.

3. In accordance with the directive under 35 U.S.C. § 121, the Applicant hereby elects Species I, claims 1-14 and 32-45 which is drawn to a shoe with a gel pad underneath the front area beneath the toes. This election is made without traverse. Accordingly, the Examiner's directives have been complied with and the appropriate election including species and claims has been made.

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6. The original '233 Application had 62 claims of invention of which 14 were independent claims. Through this Response, the '233 Application now has 28 total claims wherein 6 are independent claims. Therefore, there are 34 fewer claims and 8 less independent claims than the originally filed application. Therefore, no additional filing fee is due.

Respectfully submitted,

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